

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION)
) Civil Action No. 01-12257-PBS
)
) Judge Patti B. Saris
THIS DOCUMENT RELATES TO:)
ALL CLASS ACTIONS) Chief Magistrate Judge Marianne B. Bowler
)
) **ORAL ARGUMENT REQUESTED**
)

**TRACK 1 DEFENDANTS' EMERGENCY MOTION TO AUTHORIZE
SUBPOENAS FOR CERTAIN FORMER GOVERNMENT EMPLOYEES**

The Track 1 Defendants respectfully move this Court to authorize the subpoenas of Ms. Nancy-Ann Min DeParle, Mr. Thomas A. Scully, Mr. Stanley Weintraub, and Mr. Christopher Jennings. For the reasons set forth in the accompanying Memorandum in Support of this Emergency Motion, the Track 1 Defendants respectfully request that the Motion be GRANTED, and that Defendants be charged to take steps necessary and appropriate to secure the testimony at a date and time convenient for the Court.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), Schering and Warrick respectfully request that oral argument be heard on this motion.

REQUEST FOR ORAL ARGUMENT

Pursuant to LR. 7.1, Schering and Warrick respectfully request that oral argument be heard on this motion.

Respectfully Submitted,

THE TRACK 1 DEFENDANTS

/s/ Eric P. Christofferson

John T. Montgomery (BBO#352220)
Steven A. Kaufman (BBO#262230)
Eric P. Christofferson (BBO#654087)
Ropes & Gray LLP
One International Place
Boston, Massachusetts 02110-2624
(617) 951-7000

*Attorneys for Schering-Plough Corporation and
Warrick Pharmaceuticals Corporation*

Dated: November 17, 2006

CERTIFICATE OF COMPLIANCE WITH LR. 7.1

I hereby certify that counsel for Schering attempted to confer with counsel for Plaintiffs in a good faith effort to resolve or narrow the issues set forth herein. Although counsel for Plaintiffs said he would consider Schering's motion, he, as of this filing, has not responded to inquiries by counsel for Schering.

/s/ Eric P. Christofferson
Eric P. Christofferson

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2006, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Eric P. Christofferson
Eric P. Christofferson